

THE BILL OF RIGHTS

200 YEARS
200 FACTS



*A Guide to
American Liberties*



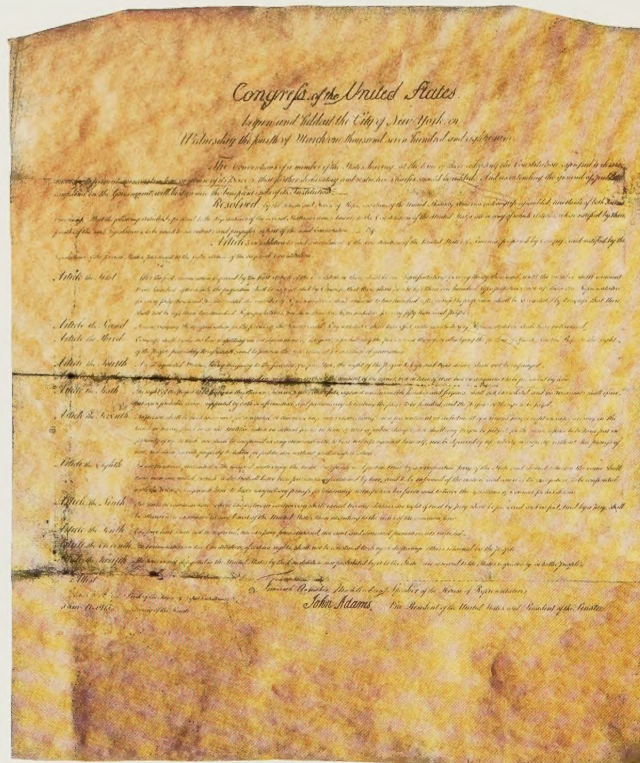
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*Judges have spoken eloquently about it.
Lawyers have made it the cornerstone of many a case.
Historians have praised its genius.
But the people who must understand
the Bill of Rights most are the people it's designed to protect.
As Albert Einstein said, "The strength of the Constitution lies
entirely in the determination of each citizen to defend it."
Of course, you needn't be an Einstein
to appreciate the Bill of Rights.*

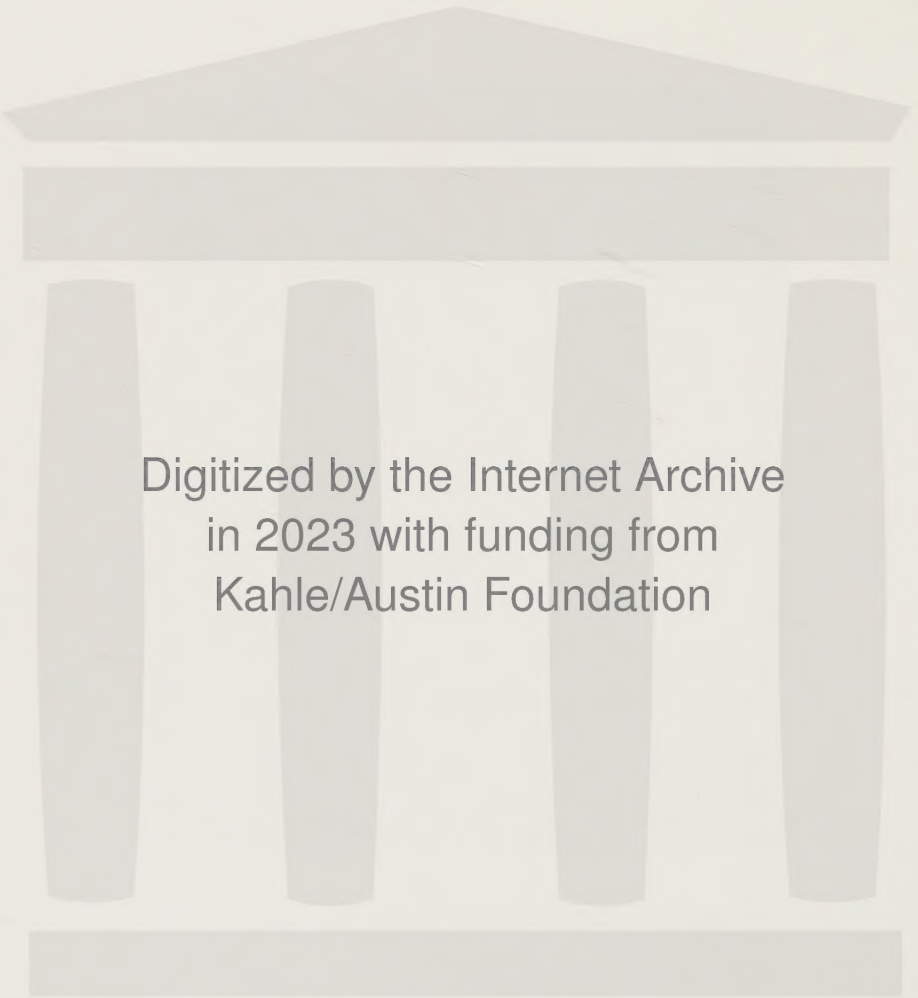
THE FOLLOWING QUESTIONS
AND ANSWERS WILL ILLUMINATE
THIS IMPORTANT DOCUMENT
— THE HEART AND SOUL OF OUR LIBERTY.



Shown above is Virginia's original copy of the Bill of Rights.
This document is on loan by the Virginia State Library and Archives
for the 50-state Bill of Rights Tour, sponsored by
Philip Morris Companies Inc.

200 YEARS • 200 FACTS

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HISTORY OF THE BILL OF RIGHTS

*The following questions and answers
help us learn about the framing and ratification
of the Bill of Rights.*

1 WHAT IS THE BILL OF RIGHTS?

The Bill of Rights is the first ten amendments to the Constitution.

2 WHO WROTE THE BILL OF RIGHTS?

Congressman James Madison of Virginia proposed a series of amendments to the Constitution. Committees of the House of Representatives and the Senate then rewrote the amendments.

3 WHEN WAS THE BILL OF RIGHTS WRITTEN?

Madison introduced his proposed amendments in the House of Representatives in May, 1789. After much debate the House and Senate approved twelve amendments at the end of September, 1789.

4 HOW IS AN AMENDMENT ACTUALLY ADOPTED?

A constitutional amendment must be passed by two-thirds of each house of Congress and then approved by three-fourths of the state legislatures.

5 DOES THE APPROVAL PROCESS HAVE A SPECIAL NAME?

Yes, it is called ratification.

6 WHEN WAS THE BILL OF RIGHTS RATIFIED?

Final ratification took place on December 15, 1791.

7 WHERE WAS THE NATION'S CAPITOL WHEN THE BILL OF RIGHTS WAS WRITTEN AND RATIFIED?

It was written when the Capitol was in New York City, but by 1791 the Capitol had been moved to Philadelphia.

8 WHEN WAS THE CAPITOL MOVED TO WASHINGTON, D.C.?

1801.

9 WHERE CAN I GO TO SEE THE BILL OF RIGHTS?

The only original copy on permanent public display is located at the National Archives in Washington, D.C. There were fifteen original copies.

10 WHAT HAPPENED TO THE OTHER FOURTEEN COPIES?

They were sent to the states for their ratification. The copy at this exhibit was the one sent to Virginia, and it is usually stored in the Virginia State Library and Archives in Richmond. Eleven other copies are known to exist. The others were lost or destroyed over time.

11 WHY FOURTEEN STATES? WEREN'T THERE ONLY THIRTEEN ORIGINAL STATES?

Yes, but by the time the Bill of Rights was ratified, Vermont was also a state.

12 TODAY, HOW MANY AMENDMENTS ARE THERE ALL TOGETHER?

In addition to the Bill of Rights, sixteen other amendments have been ratified for a total of twenty-six.

13 WHERE DID THE IDEAS IN THE BILL OF RIGHTS COME FROM?

The roots of the Bill of Rights include the Magna Charta (1215), the English Bill of Rights (1689), various other English acts and precedents, and the experience of people in England and America. During the Revolution many of the states wrote their own bills of rights. During the debates over the ratification of the Constitution, opponents of the Constitution (the antifederalists) argued that a strong central government would become a tyranny without a bill of rights.

14 WHY DIDN'T THE CONSTITUTIONAL CONVENTION OF 1787 WRITE A BILL OF RIGHTS?

Most of the delegates thought it was unnecessary. They believed that the federal government would be too weak to harm the liberties of the people, and they thought the states had already protected liberty.

15 JAMES MADISON WAS AT THE CONSTITUTIONAL CONVENTION. DIDN'T HE SUPPORT A BILL OF RIGHTS?

No. As most other federalists (supporters of the Constitution), Madison thought a bill of rights was unnecessary to the Constitution and might hurt the new government's ability to be strong and vigorous.

16 DID ANY OF THE DELEGATES AT THE CONSTITUTIONAL CONVENTION SUPPORT A BILL OF RIGHTS?

George Mason and Edmund Randolph of Virginia and Elbridge Gerry of Massachusetts not only supported a bill of rights, but actually refused to sign the Constitution because it lacked a bill of rights.

17 HOW DID PEOPLE OUTSIDE THE CONSTITUTIONAL CONVENTION FEEL ABOUT THE LACK OF A BILL OF RIGHTS?

Many Americans opposed the Constitution for a variety of reasons, but the single most common antifederalist complaint was the lack of a bill of rights.

18 WERE ANY OF THE ANTIFEDERALISTS FAMOUS AND IMPORTANT PEOPLE?

Yes. Opponents of the Constitution included George Mason, the man who had written the Virginia Bill of Rights; Patrick Henry, the famous revolutionary patriot from Virginia; Governor George Clinton of New York; and John Hancock and Samuel Adams of Massachusetts. Samuel Chase, a future United States Supreme Court Justice; Elbridge Gerry, a future Vice President of the United States; and James Monroe, a future President of the United States, were all antifederalists.

19 DID THE LACK OF A BILL OF RIGHTS HURT THE CHANCES FOR RATIFICATION OF THE CONSTITUTION?

Yes. In Massachusetts, Virginia, and New York, the vote for ratification was extremely close. The ratifying conventions in these states suggested amendments to be added to the Constitution after ratification. North Carolina refused to ratify the Constitution until after the first Congress had met and proposed a bill of rights.

20 WHY DID JAMES MADISON CHANGE HIS MIND AND SUPPORT THE BILL OF RIGHTS?

In July, 1788, Madison agreed to support amendments to the Constitution in order to satisfy the many antifederalists at the Virginia ratifying convention. In 1789, when Madison ran for Congress, he found that many citizens in his district feared the new government because the Constitution did not protect the liberties of the people. Madison promised his constituents that if elected, he would support a bill of rights.

21 ARE THERE ANY OTHER REASONS FOR MADISON'S CHANGE OF HEART?

Yes. Madison also wanted to see harmony within the Union, and he wanted North Carolina to ratify the Constitution. He correctly understood that speedy congressional action on the Bill of Rights would help accomplish both goals. North Carolina ratified the Constitution on November 21, 1789, shortly after Congress approved the Bill of Rights.

22 WHO SIGNED THE BILL OF RIGHTS?

Frederick Augustus Muhlenberg of Pennsylvania, the Speaker of the House of Representatives, and John Adams of Massachusetts, the Vice President of the United States, signed the document containing all twelve proposed amendments. John Beckley, the Clerk of the House of Representatives, and Samuel A. Otis, the Secretary of the Senate, also signed their names on the document, attesting to the validity of the document and the signatures of Muhlenberg and Adams.

23 WHY DID THE VICE PRESIDENT SIGN THE PROPOSED AMENDMENTS?

The Vice President's only constitutionally designated job (other than to replace the President if he leaves office through death, resignation, or removal) is to preside over the Senate. As the presiding officer of the Senate, Vice President Adams signed the Bill of Rights.

24 WHO ACTUALLY WROTE OUT THE COPY OF THE BILL OF RIGHTS THAT IS IN THE NATIONAL ARCHIVES?

William Lambert, an Assistant Clerk of the House of Representatives.

25 DID ANYONE IN CONGRESS OPPOSE THE BILL OF RIGHTS?

Fourteen members of the House of Representatives voted against the Bill of Rights. The Senate passed the Bill of Rights by the necessary two-thirds vote, but there is no existing record of the final vote tally.

26 WHEN DID THE BILL OF RIGHTS GO TO THE STATES?

On October 2, 1789, President Washington officially transmitted the twelve proposed amendments to the states for ratification.

27 HOW MANY STATES WERE REQUIRED TO RATIFY THE BILL OF RIGHTS?

It takes three-fourths of the states to ratify an amendment. In 1791 there were fourteen states, so it took eleven states to ratify the Bill of Rights.

28 WHEN WAS THE BILL OF RIGHTS RATIFIED?

December 15, 1791. However, because of the slow pace of communications in the eighteenth century, the official notification of the ratification of the Bill of Rights was not sent out until March 1, 1792.

29 WHO ACTUALLY SENT THE NOTIFICATION?

Secretary of State Thomas Jefferson.

30 IF CONGRESS HAD APPROVED TWELVE AMENDMENTS, WHY ARE THERE ONLY TEN AMENDMENTS IN THE BILL OF RIGHTS?

Three-quarters of the states did not ratify the first two proposed amendments.

31 DOES THAT MEAN, IF ALL TWELVE HAD BEEN RATIFIED, THE FIRST AMENDMENT WOULD HAVE ACTUALLY BEEN THE THIRD AMENDMENT?

Yes.

32 WHAT WOULD THE PROPOSED, BUT UNRATIFIED, FIRST AMENDMENT HAVE DONE?

It would have required that there be at least one representative in Congress for every 50,000 people. That would give today's Congress about 5,000 members instead of the current 435 members.

33 WHAT WOULD THE PROPOSED, BUT UNRATIFIED, SECOND AMENDMENT HAVE DONE?

That amendment would have required that no salary raise for members of Congress could take effect until after the next election for Congress.

34 HOW COULD THE STATES RATIFY SOME, BUT NOT ALL, OF THE AMENDMENTS?

The state legislatures voted on each amendment separately.

35 DID ANY STATES RATIFY ALL TWELVE PROPOSED AMENDMENTS?

Yes. Maryland, North Carolina, South Carolina, Vermont, and Virginia.

36 DID ANY OF THE STATES EXISTING IN 1789-91 NOT RATIFY THE BILL OF RIGHTS BEFORE THEY WENT INTO EFFECT?

Yes. Georgia, Connecticut, and Massachusetts.

37 WHICH WAS THE FIRST STATE TO RATIFY THE BILL OF RIGHTS?

New Jersey, on November 20, 1789.

38 WHAT WAS THE LAST STATE TO RATIFY THE BILL OF RIGHTS BEFORE IT WENT INTO EFFECT?

Virginia, on December 15, 1791.

39 WHAT WERE THE IMMEDIATE CONSEQUENCES OF THE ADOPTION OF THE BILL OF RIGHTS?

North Carolina decided to ratify the Constitution after the Bill of Rights was proposed. Throughout the nation virtually all opposition to the new Constitution disappeared within a few years after the Bill of Rights was adopted.



WHAT IS IN THE BILL OF RIGHTS ?

The Bill of Rights contains ten separate amendments, but these amendments protect more than thirty liberties and rights. In addition, the Fourteenth Amendment, adopted in 1868, made most of the Bill of Rights applicable to the states, through a process called “incorporation.” The following questions and answers explain some of the provisions of the Bill of Rights.

40

HOW DOES THE BILL OF RIGHTS AFFECT OUR DAILY LIVES?

The Bill of Rights surrounds us. The attempt to censor certain types of music or art; the plea of former Lieutenant Colonel Oliver North to take the Fifth Amendment; an editorial in the local paper critical of a government official; the debate over abortion; the controversy over school prayer; the search of a building for drugs; the protest over the death penalty; the police reading of "Miranda Rights" to an arrested person – these are all Bill of Rights issues.

The First Amendment

41 WHAT DOES THE FIRST AMENDMENT SAY?

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

42 THE FIRST AMENDMENT BEGINS WITH THE WORDS “CONGRESS SHALL MAKE NO LAW...” DOES THAT MEAN THAT THE FIRST AMENDMENT IS ONLY A RESTRICTION ON CONGRESS?

Not any more. Before the Civil War the Bill of Rights did not apply to the states. But under the Fourteenth Amendment, adopted in 1868, most of the Bill of Rights does apply to the states.

43 THE AMENDMENT SAYS CONGRESS “SHALL MAKE NO LAW...” DOES THAT MEAN THERE CAN BE NO RESTRICTIONS OF RELIGION, SPEECH, PRESS, OR OTHER FORMS OF EXPRESSION?

No. A majority of the Supreme Court has always allowed some restrictions on speech, press, and assembly. In addition, the meaning of such terms as “establishment of religion” forces the Court to constantly reinterpret this Amendment. “No law,” apparently, does not really mean no law.

44 DOES THAT MEAN THAT THE WORDS OF THE AMENDMENT ARE UNIMPORTANT?

No. The Supreme Court has said that the First Amendment embodies the preferred freedoms necessary for the functioning of a free society and, therefore, must be carefully protected.

45 HOW DOES THE FIRST AMENDMENT PROTECT RELIGION?

In two ways. It prohibits the government from creating a state religion or giving support to any or all religions. This is called the “Establishment Clause.” The “Free Exercise Clause” prohibits the government from interfering when people choose to exercise their religion as they wish.

46 HAS THERE EVER BEEN AN OFFICIAL RELIGION IN THIS COUNTRY?

At the time the Bill of Rights was written, all but two states – New York and Virginia – had some form of state-sponsored religion or at least a religious requirement for holding office. In 1789 many people feared that without a ban on official religions, the federal government might impose one religious faith on all Americans.

47 TODAY, THERE IS NO ESTABLISHED CHURCH IN THIS COUNTRY. DOESN'T THAT MEAN THIS CLAUSE IS NO LONGER IMPORTANT?

Not at all. The Establishment Clause prohibits government-sponsored prayers in public schools, most state or federal aid to religious schools, and placing strictly religious symbols on public lands.

48 WHY DOES THE ESTABLISHMENT CLAUSE PROHIBIT PRAYER IN PUBLIC SCHOOL?

Actually, it doesn't. It only prohibits school officials from designating a time for prayer or from leading prayers. School children are free to pray in school silently as long as they don't disturb the rest of the class.

49 ALRIGHT, BUT WHAT'S WRONG WITH ESTABLISHING A SET TIME FOR PRAYERS OR HAVING TEACHERS LEAD PRAYERS OR BIBLE READING?

Courts have said that such activities would put the power of the government behind a religious activity. No matter how universal the prayer, such activity would force students or teachers to participate in a religious activity that might not conform to their religious beliefs. And that, the First Amendment clearly states, is not the business of the government.

50 DOES THE FREE EXERCISE CLAUSE MEAN WE ARE FREE TO DO ANYTHING WE WANT AS LONG AS WE SAY IT IS PART OF OUR RELIGIOUS WORSHIP?

No. In a number of cases, the Supreme Court has said that the Free Exercise Clause protects all religious "beliefs," but not all religious "practices." Thus, the Supreme Court has ruled that the government

is free to prohibit some religious activities, such as the practice of polygamy or the use of drugs for religious purposes.

51 WHAT ABOUT PAYING TAXES?

All individuals must pay their taxes, even if they have a religious basis for disagreeing with the use of the tax money. Some people refuse to accept Social Security benefits on religious grounds, but the Supreme Court has ruled that they must pay their Social Security taxes.

52 WHY DON'T CHURCHES HAVE TO PAY TAXES?

The states and the federal government are free to exempt entire categories of people or institutions from paying taxes. One common category includes charities and nonprofit organizations. Churches, synagogues, temples, mosques, and other religious buildings and congregations fall into this category.

53 ISN'T IT AN ESTABLISHMENT OF RELIGION TO GIVE CHURCHES TAX BREAKS?

To some extent. This shows the complexity of protecting rights. If we don't tax churches, then we are giving religion a privilege; but if we interpret the First Amendment to prohibit tax exemptions for churches, then some might go bankrupt. The First Amendment is not antireligion, and often we have to balance freedom of religion with the prohibition on the establishment of religion.

54 ARE THERE OTHER EXAMPLES OF RELIGIOUS EXEMPTIONS?

The most common example is the exemption of clergymen and pacifists from the military draft.

55 THE BILL OF RIGHTS SAYS I HAVE FREEDOM OF SPEECH. DOES THAT MEAN I CAN FALSELY SHOUT "FIRE" IN A THEATER AS A JOKE?

Not if there are people in the theater. What the First Amendment really protects is the right to communicate ideas, concepts, thoughts, beliefs, and artistic expression. It is not a license to make noise.

56 DOES THAT MEAN THE GOVERNMENT CAN LIMIT WHEN AND WHERE I SPEAK, BUT NOT WHAT I SAY?

There are no absolutes, but that is generally correct. The government has great leeway in limiting where and when people speak, but only under a very few circumstances can the content of speech – the ideas of the speaker – be limited.

57 WHAT ARE THE ROOTS OF FREEDOM OF SPEECH?

As early as 1641, the Massachusetts Body of Liberties recognized a right of free speech. During the revolutionary period Americans became accustomed to speaking their own minds.

58 WHAT ARE THE ROOTS OF FREEDOM OF THE PRESS?

England had been struggling for a free press well before the settlement of America. In 1736 John Peter Zenger, a publisher in New York, was acquitted of charges that he had libeled the Governor. From that time forward most Americans acted as though they had a right to freedom of the press, and most of the early state constitutions protected this right.

59 WHAT ARE THE ROOTS OF FREEDOM OF ASSEMBLY?

Public meetings and gatherings were commonplace during the revolutionary period. The Pennsylvania Declaration of Rights of 1776 specifically protected this right.

60 IN 1789 "FREEDOM OF THE PRESS" REFERRED, LITERALLY, TO AN OLD-FASHIONED PRINTING PRESS, WHILE "FREEDOM OF SPEECH" WAS LIMITED TO THE STRENGTH OF THE HUMAN VOICE. HOW DOES THE FIRST AMENDMENT AFFECT RADIO, T.V., RECORDS, TAPES, FILMS, AND TELEPHONES?

The modern view of the Amendment is that it protects communication of all sorts. Electronic communication, such as television, radio and telecommunications, is regulated to prevent competition on the same channel or signal. However, the government still cannot censor news or take a station off the air for criticizing the administration in power.

61 DOES FREEDOM OF SPEECH MEAN I CAN SPEAK ANYWHERE, ANYTIME?

No. The government may limit, within reason, when and where you may speak. Otherwise, someone might run a sound truck through your neighborhood in the middle of the night.

62 CAN THE GOVERNMENT LIMIT WHAT I SAY?

Not generally. The First Amendment basically allows us to express our opinions through speech, writing, or public demonstrations – especially of a political nature – just as long as it is done peacefully.

63 WHAT LIMITATIONS OF SPEECH AND OTHER EXPRESSION ARE THERE UNDER THE FIRST AMENDMENT?

There are few. Perhaps the best example is speech that leads to direct and immediate incitement to commit a violent crime or speech that could cause immediate physical harm to others. As Justice Oliver Wendell Holmes, Jr., once said, “The most stringent protection of speech would not protect a man in falsely shouting fire in a theatre and causing a panic.”

64 I KNOW IT IS PERMISSIBLE TO DENOUNCE THE GOVERNMENT, BUT DOESN'T BURNING A FLAG GO BEYOND FREEDOM OF SPEECH?

The Supreme Court's position is clear. It has ruled that the First Amendment protects the communication of political ideas through the spoken word, the written word, and through “symbolic speech.”

65 WHAT IS “SYMBOLIC SPEECH”?

“Symbolic speech” is nonverbal communication. It might include wearing an armband, peacefully picketing a building, wearing unusual clothing, or burning the flag.

66 CAN THE GOVERNMENT CENSOR DANGEROUS SPEECH?

There are limits to the freedom of expression. The government may stop a speaker whose advocacy of violence or other illegal behavior is

likely to cause a riot or other immediate danger to the peace of society and the safety of others.

67 WHAT CAN THE GOVERNMENT DO ABOUT OBSCENE SPEECH?

There are greater limits in this area, but even here, Americans are afforded a great latitude. After all, one person's obscenity is another person's art. And times and tastes change. Earlier in this century, some literary classics, such as *Ulysses* by James Joyce, were banned.

68 WHAT VALUE CAN THERE BE TO ALLOWING PORNOGRAPHIC ART AND LITERATURE?

Courts have said that American free speech starts with the assumption that adults have the right to read, think, write, and say what they want. Once started, censorship becomes a dangerous weapon that is often used against anyone seeking social or political changes, or simply living an unusual lifestyle.

69 WHY CAN'T WE PROHIBIT THE SPEECH OF HATE GROUPS?

The theory of the First Amendment – and of American democracy – is that truth can only be achieved by allowing everyone to speak, even those who oppose the principles of America.

70 WHY SHOULD TAXPAYERS HAVE TO PROTECT MEMBERS OF THE AMERICAN NAZI PARTY OR THE KU KLUX KLAN WHEN THEY WISH TO MARCH IN PUBLIC?

When the courts or police protect the civil liberties of these extreme groups, they are seeking to preserve the right of freedom of expression for all Americans.

The Second Amendment

71 WHAT DOES THE SECOND AMENDMENT SAY?

"A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

72 WHY IS THIS AMENDMENT IN THE BILL OF RIGHTS?

In 1787 many Americans feared that the new Constitution would create a strong central government that would become a tyranny. The state militias were seen as a way of protecting the liberty of the people.

73 DOES THIS MEAN THAT I CAN OWN ANY KIND OF WEAPON I WANT?

No. The courts have consistently interpreted this Amendment to be a limitation on the federal government's right to eliminate the state militias. As a result, the federal and the state governments may regulate, or even prohibit, the ownership of weapons.

74 WHAT IS THE IMPORTANCE OF THIS AMENDMENT TODAY?

It is a constant reminder of the healthy fear the Founders had for the concentration of political and military power and the importance they invested in a citizens' army instead of a standing professional army.

The Third Amendment

75 WHAT DOES THE THIRD AMENDMENT SAY?

"No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law."

76 HOW DID THE THIRD AMENDMENT COME ABOUT?

In the period just before the Revolution, the British army was given the right to force the colonists to allow soldiers to live in their homes. The Third Amendment prevents this by prohibiting the "quartering" of soldiers in private homes during peacetime without the consent of the owner, or in private homes during wartime, except by an act of Congress.

77 HAS THE MEANING OF THIS AMENDMENT BEEN DEBATED IN MANY COURT CASES?

No. There have been very few occasions on which courts have addressed the meaning of this Amendment.

78 WHAT IS THE MODERN SIGNIFICANCE OF THE THIRD AMENDMENT?

It is one of the amendments that has been used to develop a constitutional right to privacy. The Third Amendment stands for the principle that the government, even the army, cannot invade our homes. It incorporates into the Bill of Rights the ancient idea that “a man’s home is his castle.”

The Fourth Amendment

79 WHAT DOES THE FOURTH AMENDMENT SAY?

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.”

80 WHAT DOES THE FOURTH AMENDMENT DO?

This Amendment prohibits unreasonable searches and arrests. Furthermore, it provides that warrants for searches and arrests cannot be issued unless there is “probable cause” supported by sworn testimony.

81 WHAT IS THE ORIGIN OF THE WARRANT REQUIREMENT IN THIS AMENDMENT?

The Magna Charta in 1215 prohibited seizures without warrants. But Samuel Adams complained about warrantless seizures by the British in America in his “Rights of the Colonists” in 1772. Starting with the Virginia Declaration of Rights in 1776, most of the new states had a similar provision in their constitutions.

82 WHY DO WE USUALLY REQUIRE THAT THE POLICE HAVE A SEARCH WARRANT?

If the police could search your house or seize your possessions without a warrant, it would be easy for the government to harass you for your political views, plant evidence on you to justify their search, or simply invade your privacy at will. As Justice Louis D. Brandeis once wrote: "The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding."

83 WHAT HAPPENS IF THE POLICE UNLAWFULLY OBTAIN EVIDENCE WITHOUT A SEARCH WARRANT?

Under most circumstances the evidence cannot be used in court because it was illegally obtained.

84 DOES THIS MEAN, AS JUDGE CARDOZO OF NEW YORK SAID, "THE CRIMINAL IS TO GO FREE BECAUSE THE CONSTABLE HAS BLUNDERED"?

Sometimes this happens. But, as Justice Tom Clark of Texas, a former Attorney General of the United States said, "The criminal goes free, if he must, but it is the law that sets him free. Nothing can destroy a government more quickly than its failure to observe its own laws, or worse...the charter of its own existence."

85 DOES THE FOURTH AMENDMENT INCLUDE PROTECTIONS AGAINST WIRETAPS OR ELECTRONIC SNOOPING?

The courts have ruled that the Fourth Amendment prohibits any unreasonable, warrantless invasion of your privacy. This includes electronic invasions as well as breaking down the door.

86 DOES THE FOURTH AMENDMENT AFFECT OUR RIGHTS BEYOND THE REALM OF CRIMINAL LAW?

Yes. The Fourth Amendment forms part of the general guarantee in the Bill of Rights of the right to privacy and the right to be left alone by the government.

The Fifth Amendment

87 WHAT DOES THE FIFTH AMENDMENT SAY?

“No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.”

88 WHAT DOES THE RIGHT AGAINST FORCED SELF-INCRIMINATION MEAN?

It means that no person who is being investigated or tried can be forced to confess or give testimony that might hurt himself or herself. You have a right to remain silent.

89 IS THAT WHAT IT MEANS TO “TAKE THE FIFTH”?

Yes. The Fifth Amendment provides that no person can be forced to be a witness against himself or herself. “Taking the Fifth” is the refusal to testify on grounds of self-incrimination.

90 IS THIS WHY LIEUTENANT COLONEL OLIVER NORTH WAS ABLE TO REFUSE TO ANSWER CERTAIN QUESTIONS AT SENATE HEARINGS?

Yes. He feared that if he answered questions, his answers would be used against him. So, he “took the Fifth.”

91 IF YOU INVOKE YOUR FIFTH AMENDMENT PRIVILEGE AGAINST SELF-INCRIMINATION (TAKING THE FIFTH), DOES THAT MEAN YOU ARE GUILTY?

No. Nor is it constitutionally permissible during a trial for the prosecution to even mention that the defendant did not testify.

92 WHAT IS THE ORIGIN OF THE REQUIREMENT OF DUE PROCESS OF LAW?

The Magna Charta of 1215 made the King promise to give “due process of law” to all persons accused of a crime. This right was reaffirmed in various colonial documents as well as most of the early state constitutions, starting with the Virginia Declaration of Rights.

93 WHAT IS “DUE PROCESS OF LAW”?

It is a fair trial – and more. It is also fair laws, fairly administered. It prevents the police from extracting a confession by force or threats. It guarantees that in most cases, the government cannot repeatedly try someone who has been acquitted for the same crime until a conviction is obtained.

94 WHAT IS THE ORIGIN OF THE REQUIREMENT OF COMPENSATION FOR PRIVATE PROPERTY TAKEN FOR PUBLIC USE?

The Magna Charta prohibited the taking of private property without the consent of the owner, except of course for **taxation**. The Massachusetts Body of Liberties prohibited this practice in 1641, and the Virginia Declaration of Rights of 1776 was the first state constitution to prohibit it.

95 WHAT IS THE OVERALL SIGNIFICANCE OF THE FIFTH AMENDMENT?

This Amendment, along with the First and Sixth Amendments, is at the heart and soul of American liberty. It prevents the government from taking away anyone’s “life, liberty, or property, without due process of law.”

The Sixth Amendment

96 WHAT DOES THE SIXTH AMENDMENT PROVIDE?

“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the

nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.”

97 **WHAT IS THE ORIGIN OF THE RIGHT TO A SPEEDY TRIAL?**

Throughout English history some monarchs refused to give speedy trials, especially to people arrested for political reasons. This was well known to the framers of the Amendment, who wanted to prohibit such arbitrary behavior in America.

98 **WHAT EXACTLY DOES A “SPEEDY TRIAL” MEAN?**

It prevents the government from keeping people in jail for long periods of time while not actually charging or trying them. Basically, this clause requires that the government “put up or shut up” when a criminal accusation is made.

99 **ARE PEOPLE EVER LET GO BECAUSE THE GOVERNMENT CANNOT PROVIDE A SPEEDY TRIAL?**

Yes, although it is rare. The “speedy trial” requirement has led to the plea bargain system, in which an accused person pleads guilty, often to a lesser offense, in exchange for a reduced sentence. Without plea bargaining many of our criminal justice systems simply could not function.

100 **WHAT IS THE ORIGIN OF THE REQUIREMENT OF AN IMPARTIAL JURY?**

The Magna Charta in 1215 guaranteed this to Englishmen. This right was reasserted by the colonists and reiterated in the early state constitutions.

101

WHAT IS THE ORIGIN OF THE REQUIREMENT THAT TRIALS TAKE PLACE WHERE THE CRIME ALLEGEDLY TOOK PLACE?

Before the Revolution the British claimed the right to take colonists to England or Canada for trial. This was one of the complaints against the King in the Declaration of Independence.

102

WHAT IS THE OVERALL PURPOSE OF THE SIXTH AMENDMENT?

Its goal is fairness – to provide for a fair administration of criminal law, based on the assumption that the accused are innocent until proven guilty.

103

WHY MUST THE TRIAL BE “PUBLIC”?

A public trial is a way of preventing secret convictions motivated by political concerns, personal disagreements, prejudice, or a greedy desire to usurp another person’s property.

104

HAS THE RIGHT OF A DEFENDANT TO SEE THE EVIDENCE AGAINST HIM PRODUCED IN OPEN COURT CAUSED PROBLEMS?

The refusal of the United States Government to produce evidence of official CIA payments to Manuel Noriega is a recent example of this problem. This issue comes up often in cases involving undercover informants and questions of national security.

105

ARE THERE EVER PROBLEMS INVOLVING THE RIGHT OF A DEFENDANT TO COMPEL TESTIMONY ON HIS BEHALF?

Such problems occur when defendants seek the testimony of informants, undercover agents, or high government officials. Recently, former President Ronald Reagan was compelled to give video-taped testimony in the trial of one of his former aides, John Poindexter, who was later convicted.

- 106** **HAS A CRIMINAL DEFENDANT ALWAYS BEEN GUARANTEED AN ATTORNEY?**
No. But in a series of cases, culminating with *Gideon v. Wainwright* (1963), the Supreme Court ruled that most criminal defendants are entitled to a lawyer at trial. If the defendant cannot afford a lawyer, the court must appoint one without cost to the defendant.

The Seventh Amendment

- 107** **WHAT DOES THE SEVENTH AMENDMENT SAY?**
“In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.”

- 108** **WHAT IS THE ORIGIN OF THIS AMENDMENT?**
Some antifederalists feared that the federal government would use arbitrary judges to oppress people through civil lawsuits and heavy fines. They believed that the jury was the ultimate safeguard against oppressive government.

The Eighth Amendment

- 109** **WHAT DOES THE EIGHTH AMENDMENT SAY?**
“Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”

- 110** **WHAT WAS THE PURPOSE OF THIS AMENDMENT?**
Americans did not think that a civilized government should be allowed to torture people or impose “excessive” bail or fines in order to keep people in jail because of their political beliefs. Such fears had been first expressed in the Magna Charta in 1215.

111

THE WORDING OF THIS AMENDMENT SEEMS EXCEPTIONALLY VAGUE. JUST WHAT DOES “CRUEL AND UNUSUAL PUNISHMENT” MEAN?

It must be judged by contemporary standards. In 1789 it was common to whip people, a practice considered cruel by today’s standards.

112

IS THE DEATH PENALTY CRUEL AND UNUSUAL?

This question is still debated, but a divided Supreme Court has held that it is not “cruel and unusual.” On an international scale the death penalty has become increasingly “unusual,” and most major nations have abolished it.

113

HOW HAS THE EIGHTH AMENDMENT BEEN ENFORCED IN RECENT YEARS?

This Amendment has forced the upgrading of state prisons, many of which have become overcrowded and dangerous. Federal judges in some states took over the administration of the state prisons because the conditions in them constituted “cruel and unusual punishment.”

The Ninth Amendment

114

WHAT DOES THIS AMENDMENT SAY?

“The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.”

115

WHAT ARE THE ROOTS OF THIS AMENDMENT?

It grew out of the debate over the nature of American government and Anglo-American law. It was perhaps James Madison’s most creative innovation.

116

WHAT WAS IT MEANT TO ACCOMPLISH?

In 1787-91 many Americans believed that a bill of rights was like a contract. They feared that any rights that weren’t specifically listed,

would be forfeited – in effect, lost forever. Essentially, this Amendment says any rights or liberties we forgot to list are not given to the federal government, but are retained by the people.

117 WHAT SORT OF RIGHTS ARE THEY?

They include the right to get married, raise a family, choose not to have children at all, pursue an occupation of your choice, move from place to place, etc.

118 HAS THE SUPREME COURT EVER USED THE NINTH AMENDMENT?

In *Griswold v. Connecticut* (1965), a divided Supreme Court used the Ninth Amendment to strike down a law that made it a crime for doctors to give birth control to anyone, including married couples. In 1972 the Court extended the right of privacy to unmarried people who wanted birth control, and in *Roe v. Wade* (1973), the right to privacy helped to legalize the right to an abortion. This decision remains one of the most controversial of the last few decades.

The Tenth Amendment

119 WHAT DOES THE TENTH AMENDMENT SAY?

“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

120 WHAT WAS THE PURPOSE OF THIS AMENDMENT?

It was adopted to alleviate the fears of the antifederalists that under the new Constitution, the states would cease to have any powers or purpose.

121 HAS THIS AMENDMENT HAD ANY PARTICULAR IMPACT ON OUR NATION'S DEVELOPMENT?

Under the Tenth Amendment the states are allowed to do many things at the local level. Marriage and divorce laws, child custody

laws, and traffic laws are all in the domain of the states through the Tenth Amendment.

122 IF THAT IS SO, WHY IS THE FEDERAL GOVERNMENT ABLE TO FORCE THE STATES TO ADOPT THE 55 AND 65 MILE PER HOUR SPEED LIMITS?

Actually the federal government did not force the states to adopt this law. The federal government simply required that states adopt such a speed limit to be eligible to receive certain federal highway funds.

The Fourteenth Amendment

123 THE FOURTEENTH AMENDMENT IS NOT PART OF THE BILL OF RIGHTS, SO WHY IS IT IMPORTANT TO THE BILL OF RIGHTS?

Before the Civil War the Supreme Court ruled that the Bill of Rights only limited the actions of the federal government and that it did not have any effect on the states. Relying on the “privileges and immunities” and “due process” clauses in The Fourteenth Amendment, adopted in 1868, the Supreme Court has made most of the Bill of Rights applicable to the states. The Fourteenth Amendment also prevents states from denying anyone “equal protection of the laws.” The courts have applied this clause to strike down almost all forms of government-sanctioned racial discrimination.

124 WHAT DOES THE AMENDMENT SAY?

The Fourteenth Amendment states: “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” The Amendment also gives Congress the power to enforce this clause.



WHAT ARE YOUR RIGHTS ?

*The following questions and answers
help us understand what rights and
liberties are protected by the Bill of Rights.*

125

DOES THE BILL OF RIGHTS "GIVE ME RIGHTS"?

Yes and no. The Bill of Rights limits what the government may do; the government may not take away rights and liberties you already have, such as freedom of speech or freedom of religion. But the Bill of Rights also guarantees you certain rights, such as the right to an attorney at a trial.

126

DOES THE BILL OF RIGHTS GIVE ANY SPECIAL PROTECTIONS TO WOMEN OR TO MINORITIES, SUCH AS AFRICAN AMERICANS, HISPANIC AMERICANS, ASIAN AMERICANS, OR AMERICAN INDIANS?

No. The Bill of Rights limits the government from infringing on the liberties of all people. However, other amendments, such as the Thirteenth, Fourteenth, Fifteenth, and Nineteenth, are designed to provide specific assurance that minorities and women have the same political and civil rights as other Americans.

127 DOES THE BILL OF RIGHTS ONLY APPLY TO AMERICAN CITIZENS?

No. Notice that the amendments use words like the "people," the "owner," or "person" when describing rights. Aliens, visitors, and even people illegally in the country are entitled to the protection of the Bill of Rights.

128 DOES THE BILL OF RIGHTS APPLY TO CHILDREN?

Yes, but in a limited way. Since the government assumes a right to protect children shared with their parents or guardians, there are some limitations on what children can do or the rights they have.

129 IN WHAT WAYS DO CHILDREN NOT HAVE THE SAME PROTECTIONS OF THE BILL OF RIGHTS AS ADULTS?

The Sixth Amendment guarantees the right to a jury trial; however, children can be tried in juvenile court where there are no juries. Juvenile courts were designed to give children more lenient sentences than adults, to keep them away from hardened criminals, and to be fairer with them. Juvenile courts are supposed to give children greater protections than adults.

130 ARE THERE LIBERTIES THAT ADULTS HAVE THAT CHILDREN DO NOT HAVE?

Yes. One example is the First Amendment right to read what you want, see what you want, and hear what you want. Adults can go to X-rated movies or legally buy pornography, but because society accepts the burden of protecting children, laws do prohibit children from seeing some movies or buying some literature.

131 WHAT ABOUT RIGHTS OF CHILDREN IN SCHOOLS?

The courts have ruled that public school officials have broad powers to maintain order in the schools. This means that some forms of expression that would be protected outside of school, can be limited in schools. This might allow establishing dress codes or censoring a school newspaper.

132 DOES THAT MEAN YOU LOSE YOUR RIGHTS WHEN YOU ENTER THE SCHOOLHOUSE?

No. The Supreme Court upheld the right of children to wear armbands to protest the Vietnam War. The Court also allowed children to be exempt from certain school activities on religious grounds. As the Supreme Court said in *In re* (in the matter of) *Gault* (1967), "Whatever may be their precise impact, neither the Fourteenth Amendment nor the Bill of Rights is for adults alone."

133 WHAT HAPPENED IN *IN RE GAULT*?

Gerald Gault, a fifteen-year-old boy, was sentenced to six years in the Arizona Industrial School for being a delinquent. Had he been an adult and committed the same illegal act – making an obscene phone call – he would have been sentenced to no more than two months in jail.

134 WHAT WAS THE FINAL OUTCOME?

Gault was never given a trial, nor was he allowed to confront witnesses against him, nor was he given an attorney. The Supreme Court overturned his conviction and, in the process, made certain that children be given basic due process rights, even if they are not given all the same rights as adults.

135 WHAT IS DOUBLE JEOPARDY?

This is the practice of trying someone under the same law for a crime after he or she was found not guilty. The Fifth Amendment prohibits such trials. If you are acquitted by a jury (and there were no technical errors in the trial), you cannot be retried for the same offense.

136 WHAT IS THE "EXCLUSIONARY RULE"?

This rule says that illegally obtained evidence or confessions cannot be presented as evidence in court. It is based on the Fourth Amendment.

137 WHY DO WE HAVE SUCH A RULE? DOESN'T IT MEAN THAT ALL AMERICANS SUFFER IF THE GOVERNMENT OFFICERS MAKE A MISTAKE?

Justice Louis D. Brandeis reminded Americans that "Our Government ...teaches the whole people by its example. If the Government becomes the lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy."

138 WHAT IS THE "MIRANDA RULE"?

In *Miranda v. Arizona* (1966), the Supreme Court stated that when the police arrest you, they cannot question you until they inform you of your rights. Evidence gained from questioning before you have been read your "Miranda rights" is likely to be thrown out of court under the exclusionary rule.

139 WHAT ARE THOSE RIGHTS?

In *Miranda* the Supreme Court stated that "Prior to any questioning the person must be warned that he has the right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed."

140 WHAT IS "FREEDOM OF ASSOCIATION"?

This term is not found in the Bill of Rights, but the Supreme Court has ruled that the rights to freedom of speech and assembly imply such a right. You have the right to associate with whomever you wish, to talk to them, and to join together with them, as long as your acts are not illegal.

141 WHAT IS THE RIGHT TO PRIVACY? WHERE IS IT FOUND IN THE BILL OF RIGHTS?

The word "privacy" is not in the Bill of Rights, but the Supreme Court has ruled that through a variety of amendments, Americans have a fundamental right to privacy.

The right to privacy comes from what Justice Brandeis called the “right to be left alone.” We see it in the Fourth Amendment’s prohibition of unreasonable searches and in the right against self-incrimination in the Fifth Amendment. It is also one of the unenumerated rights of the Ninth Amendment. The right to privacy led to decisions in *Griswold v. Connecticut* and *Roe v. Wade* guaranteeing access to birth control and abortion.



THE SUPREME COURT AND THE BILL OF RIGHTS

To a great extent, the Bill of Rights has been shaped by the Supreme Court. The following questions and answers help us better understand the Supreme Court and its relationship to the Bill of Rights.

143 HOW MANY SEATS ARE THERE ON THE SUPREME COURT?
Nine.

144 HAVE THERE ALWAYS BEEN NINE SEATS?
No. The number of seats is set by Congress. There have been as many as ten and as few as five.

145 WHICH PRESIDENT APPOINTED THE MOST SUPREME COURT JUSTICES?
George Washington (11).

146 WHICH PRESIDENT APPOINTED THE MOST SUPREME COURT JUSTICES IN THE MODERN ERA?

Franklin D. Roosevelt (8). Roosevelt also promoted one Associate Justice (Harlan F. Stone) to be Chief Justice.

147 WHICH PRESIDENT APPOINTED THE FEWEST SUPREME COURT JUSTICES?

Jimmy Carter (1977-1981) was the only President to serve a full term and make no appointments. Three Presidents who served less than a full term - William H. Harrison, Zachary Taylor, and Andrew Johnson - also made no appointments.

148 WHO SERVED THE LONGEST ON THE SUPREME COURT?

William O. Douglas, over thirty-six years. Appointed in 1938, he remained on the Court until 1975.

149 WHO SAT ON THE SUPREME COURT FOR THE SHORTEST TIME?

It is not clear. John Rutledge was on the Court from 1789 to 1791. However, during that time he was also Chief Justice of South Carolina and never took his seat on the United States Supreme Court. From 1791 to 1793 Thomas Johnson served for less than fourteen months.

150 THE PRESIDENT OF THE UNITED STATES MUST BE A NATIVE-BORN AMERICAN CITIZEN. IS THAT REQUIRED OF A SUPREME COURT JUSTICE?

No. Justice Felix Frankfurter, for example, was born in Austria and came to the United States at the age of twelve.

151 WHAT ARE THE QUALIFICATIONS FOR SERVING ON THE SUPREME COURT?

There are none, not even being a lawyer. The Constitution provides that the President shall nominate people to the Court and that a majority of the Senate must confirm them.

152 WHO WAS THE FIRST AFRICAN-AMERICAN ON THE SUPREME COURT?

Thurgood Marshall, appointed by President Lyndon Baines Johnson in 1967.

153 WHO WAS THE FIRST WOMAN ON THE SUPREME COURT?

Sandra Day O'Connor, appointed by President Ronald Reagan in 1981.

154 WHO WERE THE FIRST ROMAN CATHOLIC AND JEWISH MEMBERS OF THE SUPREME COURT?

Chief Justice Roger B. Taney, appointed by President Andrew Jackson in 1836, and Louis D. Brandeis, appointed by President Woodrow Wilson in 1916.

155 WHAT STATES HAVE PRODUCED THE MOST SUPREME COURT JUSTICES?

Fourteen judges were living in New York when they were appointed to the Court. The next is Ohio with nine, followed by Massachusetts with seven, Pennsylvania with six, and Virginia with five.

156 WHO WERE JUSTICE OLIVER WENDELL HOLMES, JR., AND JUSTICE LOUIS D. BRANDEIS?

Two Supreme Court justices noted for their dissents in the 1920's and 1930's in which they argued for free speech, freedom of assembly, the rights of the accused, the right to privacy, and protection from warrantless wiretaps. Many of their dissents were subsequently incorporated into majority decisions.

157 WHAT WAS THE WARREN COURT?

The Warren Court was the Supreme Court of the United States from 1954 to 1969, while Earl Warren was Chief Justice. This Court helped expand the Bill of Rights' guarantees of freedom of religion, speech, press, assembly, and the rights of the accused. On the Court were some of the most passionate defenders of individual rights in the Court's history, including Hugo Black, William O. Douglas, William Brennan, Arthur Goldberg, Thurgood Marshall, and Abe Fortas.

158

IS THE SUPREME COURT THE ONLY COURT THAT CAN DETERMINE IF SOMETHING VIOLATES THE BILL OF RIGHTS?

No. The federal district courts and the United States Court of Appeals as well as state courts and government agencies are all able to declare a statute or a government action in violation of the Constitution. Each year these courts make thousands of rulings on the constitutionality of laws, government actions, and the correctness of police procedures.

159

DO THE PRESIDENT AND CONGRESS HAVE A ROLE TO PLAY IN UPHOLDING THE BILL OF RIGHTS?

Definitely. In 1811 President James Madison vetoed a bill for the distribution of land in Mississippi because it included a land grant to a Baptist Church. Madison thought this violated the Establishment Clause of the First Amendment. In this century Senator Sam Ervin of North Carolina voted against a number of federal laws involving criminal justice and wiretapping because he believed they violated various provisions of the Bill of Rights.

160

IS THERE A ROLE FOR THE STATES IN SUPPORTING THE BILL OF RIGHTS?

Absolutely. Massachusetts Governor Michael Dukakis vetoed a politically popular bill compelling public school teachers to salute the flag on grounds that it violated the First Amendment. In July, 1990, Governor Buddy Roemer of Louisiana vetoed a bill that would have required a mandatory rating system for all phonograph records sold in his state. In vetoing the bill, Roemer expressed his distaste for "trash lyrics," but said that even offensive speech is protected by the First Amendment to the Constitution.



PEOPLE WHO MADE A DIFFERENCE

INDIVIDUALS AND THE BILL OF RIGHTS

*Individuals – as lawyers, activists, or parties
to cases – have helped our Bill of Rights grow
and develop. Here are some questions and
answers about some of these people.*

161 WHO WAS JAMES MADISON (1750–1836)?

A Congressman from Virginia who sponsored the amendments to the Constitution that became the Bill of Rights. In the summer of 1789, he worked tirelessly to get the Bill of Rights approved by Congress. For this he is rightly known as the “Father of the Bill of Rights.”

162 WHO WAS GEORGE MASON (1725–1792)?

The main author of the Virginia Declaration of Rights of 1776. As a delegate to the Constitutional Convention in 1787, Mason refused to sign the Constitution because, among other things, it lacked a bill of rights.

163

WHO WAS ROGER SHERMAN (1721–1793)?

A delegate to the Constitutional Convention and later a Congressman from Connecticut. Sherman thought a bill of rights was unnecessary, but in Congress he made important amendments to Madison's proposals. In the end, he voted for the Bill of Rights.

164

WAS THOMAS JEFFERSON (1743–1826) INVOLVED IN WRITING THE BILL OF RIGHTS?

No. Jefferson, the principal author of the Declaration of Independence, was America's Ambassador in France when Madison drafted the Bill of Rights.

165

WHAT WAS GEORGE WASHINGTON'S (1732–1799) ROLE IN THE ADOPTION OF THE BILL OF RIGHTS?

In his first address to Congress, President Washington urged that amendments to the Constitution be considered. Behind the scenes he helped get support for a bill of rights.

166

WHO WAS JOHN ADAMS (1735–1826)?

The co-author of the Declaration of Independence and the first Vice President of the United States. As provided under the Constitution, Adams signed the proposed amendments that became the Bill of Rights.

167

WHO WAS WILLIAM LLOYD GARRISON (1805–1879)?

Organizer of the American Anti-Slavery Society and editor of the nation's most important anti-slavery newspaper, *The Liberator*, in which he proclaimed: "I am in earnest – I will not equivocate – I will not excuse – I will not retreat a single inch – and I will be heard." He used the Bill of Rights to fight for an end to slavery.

168

WHO WAS FREDERICK DOUGLASS (1817–1895)?

A fugitive slave who became America's most famous black abolitionist orator, editor of his own newspaper, first black member

of the electoral college, and the Ambassador to Haiti. He used the Bill of Rights to fight for an end to slavery and for racial equality in America in the nineteenth century.

169 WHO WAS ROGER N. BALDWIN (1884–1981)?

The founder of the American Civil Liberties Union (ACLU), the nation's oldest organization dedicated to protecting the Bill of Rights for all Americans, no matter what their political or social views might be.

170 WHO WAS CLARENCE S. DARROW (1857–1938)?

A famous trial lawyer noted for his many cases involving the death penalty, freedom of speech, and civil liberties. His famous cases include the trial of *Eugene v. Debs*, the Leopold and Loeb murder trial, and the Scopes Monkey Trial. He was born before the Civil War and continued to fight for civil liberties until his death in 1938.

171 WHO WERE SUSAN B. ANTHONY (1820–1906) AND ELIZABETH CADY STANTON (1815–1902)?

Abolitionists, women's rights activists, co-founders of the National Woman Suffrage Association, and co-authors of *History of Woman Suffrage*. They used the liberties protected by the Bill of Rights to agitate for the political rights of women. Although they could not vote, Anthony and Stanton could, and did, organize, petition, march, and protest in their struggle for the ballot.

172 HOW DID THE REVEREND DR. MARTIN LUTHER KING (1929–1968) USE THE BILL OF RIGHTS ?

This civil rights leader refined the tactics of nonviolent demonstrations. He exercised his First Amendment rights to assemble peaceably; he also relied on the criminal due process provisions of the Bill of Rights for protection when he was arrested for challenging racial segregation.



THE BILL OF RIGHTS OVER TIME

The following questions and answers help us understand how Americans have viewed the Bill of Rights over time.

173 **IS THE UNITED STATES THE ONLY COUNTRY WITH A WRITTEN BILL OF RIGHTS ?**
 No, but it was the first nation to have a formal, written bill of rights as part of its fundamental law. Since 1791, many nations have followed the model developed by the United States. As recently as 1982, Canada adopted a written “Charter of Rights.”

174 **WHERE WAS THE FEDERAL COPY OF THE BILL OF RIGHTS STORED FROM 1875 UNTIL IT WENT ON DISPLAY AT THE NATIONAL ARCHIVES?**
 It was in the basement of the State Department, in a green cabinet along with a sword once owned by the Emperor of Haiti and six ancient Japanese swords.

175 WHEN WAS THE FIRST BILL OF RIGHTS WEEK?

New York State established an official Bill of Rights Week in February, 1940.

176 WHEN WAS BILL OF RIGHTS DAY ESTABLISHED BY THE FEDERAL GOVERNMENT?

President Franklin D. Roosevelt established it on December 15, 1941.

177 WHAT DO MOST AMERICANS KNOW ABOUT THE BILL OF RIGHTS?

Not much. National opinion polls show that less than half of all Americans can identify the Bill of Rights as the first ten amendments to the Constitution. Fewer know what is in the amendments.

178 IS THE BILL OF RIGHTS THE ONLY PLACE IN THE CONSTITUTION WHERE OUR RIGHTS AND LIBERTIES ARE GUARANTEED?

No. They are also protected in other amendments. In addition, some rights, such as the guarantee of habeas corpus (except during an invasion or rebellion), are protected in the main body of the Constitution.

179 DO THE STATE CONSTITUTIONS AFFECT OUR RIGHTS?

Yes. Each state constitution explicitly protects basic rights. Many state constitutions protect some liberties that are not found in the federal Constitution. For example, in 1780 Massachusetts abolished slavery with its Declaration of Rights, although the United States did not do this until after the Civil War in the Thirteenth Amendment.

180 WHAT HAPPENED TO THE WRITER UPTON SINCLAIR WHEN HE ATTEMPTED TO READ THE BILL OF RIGHTS IN PUBLIC AT A DOCKWORKERS STRIKE IN 1923?

The police arrested him and drove him around Los Angeles for five hours before bringing him before a judge, who sent him to an isolated jail. He was later charged with “discussing, arguing, orating and debating certain thoughts and theories, which...were detrimental and in opposition to the orderly conduct of affairs of business, affecting the rights of private property...”

181

WHEN WAS THE BILL OF RIGHTS FIRST MADE PART OF THE HANDBOOKS THAT IMMIGRANTS WERE GIVEN TO STUDY IN ORDER TO BECOME CITIZENS?

1943.

182

DOES EVERYONE IN AMERICA ALWAYS UNDERSTAND THE NEED TO SUPPORT AND DEFEND THE BILL OF RIGHTS?

Apparently not. The commander of an American military base once had the following statement stamped on copies of the Constitution distributed to his soldiers: "This document does not necessarily reflect the views of the commander of this unit."

183

DOES THE BILL OF RIGHTS ALLOW THE USE OF CAMERAS IN THE COURTROOM?

Yes, some courts do allow cameras. On the one hand, the use of cameras in courts is constitutional, as long as it does not interfere with the right to a fair trial as guaranteed by the Bill of Rights. On the other hand, it is not unconstitutional to exclude cameras from the courtroom, but under most circumstances it is unconstitutional to exclude reporters or anyone else from the courtroom.



ON THE ROAD
WITH THE BILL OF RIGHTS
V.I.P. TREATMENT OF A PRICELESS DOCUMENT

Did you know...

184 The Bill of Rights is being displayed, stored and transported to fifty-two cities around the country under conditions not unlike the measures used to ensure the safety of gold, precious jewels, and priceless works of art.

185 The agents directly responsible for the security of this invaluable document during the exhibit and transit periods are recently discharged United States Embassy Marines. All are dedicated personnel whose responsibility in service was the security of U.S. embassies throughout the world.

186 The total years of experience of these men and other security management personnel assigned to the Bill of Rights Tour add up to an impressive 800 years of safeguarding lives of American V.I.P.'s, including every United States President since Dwight D. Eisenhower.

187 Tour personnel are backed by state-of-the-art security equipment, including dual-tech motion detectors, satellite communications, and the latest in sophisticated camera equipment.

188 The Bill of Rights is monitored every second of the Tour for temperature, relative humidity, vibration, light level, capsule pressure, and position so that changes can be evaluated and potential damage circumvented.

189 The capsule holding the Bill of Rights is pressurized with chemically-pure nitrogen to eliminate the effects of any atmospheric pollutants.

190 The document's spectacular lighting and audio/visual effects are made possible by over 600 automatic functions fed by computer-controlled laser disc players and high-definition projectors.

191 The state-of-the-art fire and security system operates twenty-four hours a day, seven days a week, for the entire Tour.

192 Despite its multi-layered, bullet-resistant glass, the document's display case provides perfect viewing and eliminates the need for handling the document for close inspection.

193 The Bill of Rights Tour visits each city in an armored, bullet-proof, six-wheel, custom-made van that projects a museum-like environment, even when on the road.

194 The exhibit travels in over 100 shipping containers and can be set up, disassembled and on the road again in less than twenty-four hours.

195 Light is maintained at a low level with special filtering that eliminates virtually all ultra-violet and infrared rays. When not on display, the document is kept dark for its protection.

196 In the event of a power outage, the show will still go on, thanks to a complete standby power system, that travels with the exhibit and provides critical environmental, security, and show back-up.

197 The exhibit is a full-scale duplication of a working scale model that was produced in plastic, wood and metal from mathematically accurate computer programming.

198 The image-enhanced photograph of Virginia's original copy of the Bill of Rights utilized the same advanced technology developed by NASA for satellite and space probe photography.

199 Construction, also inspired by the aerospace industry, includes aircraft-grade aluminum, lightweight fire-proof paneling, and ceramic fireproof thermal insulation similar to that which protects a NASA space shuttle.

200 The living record of the thoughts of visitors to the exhibit will be made possible through an experimental video kiosk — the first of its kind.

*These are brief discussions of certain and often complex constitutional issues
arising from the Bill of Rights.*

*These questions are meant to be instructive and
to stimulate Americans to think about the values inherent
in the Bill of Rights.*

*These questions are general in nature. The law is very complex, and some of
the answers to these questions might not apply
to specific sets of facts.*

THIS INFORMATION HAS BEEN VERIFIED BY AMERICAN HISTORY WORKSHOP,
AN INDEPENDENT ASSOCIATION OF PROFESSIONAL HISTORIANS OF BROOKLYN, N.Y.



THIS SYMBOL WAS COMMISSIONED
TO COMMEMORATE THE BILL OF RIGHTS BICENTENNIAL.
THE CENTER STRUCTURE IS BASED ON CLASSIC GREEK ARCHITECTURE
AND EVOKES THE FOUNDATION OF DEMOCRATIC IDEALS
IN ANCIENT GREEK THOUGHT.
ITS THREE COLUMNS REPRESENT THE BRANCHES OF GOVERNMENT.
THE UNIFYING CIRCLE OF STARS SYMBOLIZES
THE FIRST TEN AMENDMENTS TO THE CONSTITUTION AND
THE FIFTY STRIPES REPRESENT THE STATES.
THE BLUE AND RED BRUSH STROKES ECHO THE UNFINISHED
NATURE OF OUR DEMOCRATIC EXPERIMENT AND THE VARIETY
OF INDIVIDUAL EXPRESSION WHICH DRIVES IT.